

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2888 – SB 2890

March 19, 2012

SUMMARY OF AMENDMENT (014456): Deletes all language after the enacting clause. Creates a felony offense for a person to knowingly prepare, sign, or file a lien or other document that is intended to encumber property when the person has no reasonable basis for placing the lien on such property. Violation is punished as forgery under Tenn. Code Ann. § 39-14-114. Defines a “person” as an individual or entity. Violation does not apply to a licensed attorney who prepares such a document in the course of representation of a client; a financial institution regulated by the Tennessee Department of Financial Institutions, the Federal Reserve Board, the Office of the Comptroller of the Currency, the National Credit Union Administration, or an employee or agent of such an entity who prepares, signs, or files a lien or other document in the ordinary course of business; a title insurance company or agent who prepares, signs, or files a lien or other such document; or any person who prepares, signs, or files a lien or other such document that contains a mistake, typographical error, or scrivener’s error.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$5,700/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - \$8,300/Incarceration*

Assumptions applied to amendment:

- Forgery is punishable as theft pursuant to Tenn. Code Ann. § 39-14-105, but in no event is less than a Class E felony.
- The Department of Correction (DOC) assumes one additional Class D felony admission every five years as a result of a forgery with a value ranging between \$1,000 and \$10,000.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one additional Class D felony every five years.

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- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$61.36. The average post-conviction time served for a Class D felony is 1.86 years (679.37 days) at a cost of \$41.686.14 (\$61.36 x 679.37 days). The annualized cost per offender is \$8,337.23 (0.20 annual number of convictions x \$41.686.14).
- Any increase in caseloads for state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.
- Any increase in caseloads for the District Attorney Generals Conference or the District Public Defenders Conference can be accommodated within existing resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc